The Solicitors' Journal

(ESTABLISHED 1857.)

*** Notices to Subscribers and Contributors will be found on page iii.

VOL. LXXV. **Saturday, August 22, 1931.** No. 34

Current Topics.

Land Value Tax.

WE PUBLISH elsewhere in this issue a notice received from the Inland Revenue authorities, drawing attention to the provisions of s. 28 of the Finance Act, 1931, with regard to the production to the Commissioners of Inland Revenue of instruments transferring land executed on or after the 1st September. We understand that the unusual course of forwarding a copy of this notice by post to every solicitor has been adopted. Certainly the importance of the subject-matter warrants it. Attention has already been drawn in these columns to the new procedure and an outline of the statutory requirements given (*ante*, p. 533). The most important additional information contained in the notice is that, for the purposes of the section, instruments may be produced, not only at Somerset House, but at the Inland Revenue Stamp Offices in the City of London and in the provinces. They will also be accepted at any head or branch post office and at certain money order sub-offices. Certain forms which will be required to be filled in when deeds are produced are referred to, but the notice does not state where they may be obtained. We understand that these will be obtainable, without charge, at the places mentioned above where instruments may be produced and documents accepted. This follows the procedure adopted under the similar provisions of the Finance (1909–10) Act, 1910. Three forms will be available—Form L.V.(A), for the use of persons electing to furnish particulars regarding an instrument, under para. 1 (*a*) of the Second Schedule; Form L.V.(B), to accompany a copy of the instrument, under para. 1 (*b*); and Form L.V.(C), for furnishing particulars not set out in an instrument, under the proviso to para. 1 (*c*). Adequate supplies of these forms should, we understand, be available next week.

Judicial Declaration of Death.

LIKE OTHER systems of law, the German Code makes provision for a declaration being made that a person who has not been heard of for a certain number of years must be regarded as dead. It sometimes happens, however, as it did the other day in Germany, that the absent person has not joined his or her deceased relatives, but is very much alive. In the case in question a woman had in 1923 been judicially declared to be dead at the instance of her husband, she having been living apart from him and not having been heard of for a number of years. On subsequently learning of the decree declaring her to be dead, the wife applied for its annulment, but as she was out of time she was told, in effect, by the court, that she was estopped from denying her decease. We are not informed whether or not the husband had re-married as the wife of ENOCH ARDEN did; but if he did, it is interesting to find that the Code provides that the second marriage is not annulled by the mere fact that the first wife is still alive. Section 1348 of the Code enacts that if, after a spouse has been declared to be dead, the other contracts a second marriage, that second marriage is not avoided by the fact that the other is alive, unless both parties to the second marriage were aware at the time of it being celebrated that the person judicially declared to be dead was in fact living. English law pays no regard to the *bona fides* of a party who contracts a second marriage on the mistaken footing that the other party to the first marriage is dead; it treats the second marriage as a nullity for all purposes. Scots law also treats the second marriage as a nullity but illogically although humanely treats any children born of that marriage as legitimate.

Freak Wills.

A CERTAIN gentleman is reported to be about to make his will on a gramophone record. Those who desire, at the least expense, and with the least trouble to their executors, to leave so much as the law permits to their chosen beneficiaries, will make their wills in legible English handwriting, with good quality ink, or typewritten, on durable paper, and without corrections or interlineations. A will on a gramophone record might be regarded, and perhaps justly, as deliberately freakish. Unnecessary trouble would be given to the Somerset House authorities, and probate would certainly be delayed, but, if the record could be deciphered, it could hardly be refused on that account. By far the easiest way of deciphering it would be by placing it on the instrument, when it would decipher itself. If the difficulty of deciphering it could be overcome in this or any other way, that of signature would remain, unless the will was signed in the ordinary way. A testator who bawls his name before a microphone or into a machine does not sign it. A signature by an attesting witness may be allowed, as in *Re Bailey* (1838), and *Smith* v. *Harris* (1843), 1 Rob. Eccl. 262, or even by another person imprinting the engraved stamp of the testator's signature, as in *Re Jenkins* (1863), 3 Sw. & Tr. 93. An armless man might conceivably sign with a pen placed in his mouth or between his toes, like the armless artist worked with his brush at Antwerp in the later years of the last century. A signature recorded by the use of the vocal organs, however, seems a long way ahead of these cases. Indeed, writing a signature was expressly required for a permanent record, for it is only within living memory that such a record for the voice has been possible. On the question of the material on which a will may be written or printed we may perhaps refer to our note (Vol. 70, p. 1187), "The Egg-shell Will," in which reference was made to the elaborate hoax on an eminent Chancery practitioner by his pupils, as to a will tattooed on the back of a savage, and the difficulty of filing the latter at Somerset House. We also considered the validity of a will in shorthand (Vol. 74, p. 128). Certain people sometimes amuse themselves by posting freak letters, with addresses which are deliberate conundrums for the sorters. Those with sense, however, would hardly

choose to send a missive of any importance in that way. *A fortiori* then with a will, for the corresponding fate to that of a dead letter would be denial of probate.

The Enticement of a Husband.

In New York the wife of a film director is suing a well-known film actress for £100,000 damages for enticing her husband "*per quod consortium amisit.*" The doubts as to whether such an action lay in England were resolved as recently as 1923, in *Gray* v. *Gee*, 39 T.L.R. 429, by Lord Darling, as mentioned in a previous note on the matter: see 70 Sol. J. 324. The converse case of enticing away a wife has, of course, long been established as giving rise to a cause of action, as in the old case of *Winsmore* v. *Greenbank* (1745), Willes 577, and in *Smith* v. *Kaye* (1904), 20 T.L.R. 261, where a husband, who had been groom to his wife's brother, one of the defendants, recovered substantial damages on this account. In America the action, brought either by husband or wife, appears to be far more common than it is here, sometimes under express statutory provision, but, in the absence of legislation, a wife's action has in certain states been held not to lie: see for example *Duffies* v. *Duffies* (1890), 20 Am. St. Rep. 79, a Wisconsin case. In dealing with *Winsmore* v. *Greenbank*, in that case, Orton, J., said that the learned counsel citing it had ignored all the common law disabilities of a wife in respect of suing third parties in her own name without joining in her husband. If one spouse had been enticed away, a petition for the restitution of conjugal rights always lay against the other, and was more or less in the nature of a mandatory injunction to the respondent to return to the consortium, the breach of which not only allowed but required the judge to send the delinquent to prison until he or she obeyed: see *Barlee* v. *Barlee* (1822), 1 Add. 301. Since the Matrimonial Causes Act, 1884, however, imprisonment for contempt of a restitution order has been abolished. Nevertheless, on the principle of *Seaward* v. *Paterson* [1897] 1 Ch. 545, that any person who aids and abets another to disobey the court's order is guilty of contempt, it may be possible that, after a restitution order, persons inciting a respondent to continued disobedience of it could be committed, although the chief offender could not be. The experiment, however, does not appear to have been attempted.

The Closing of Shops on the Continent.

It would appear (writes a correspondent of The Solicitors' Journal at present in Switzerland) that the closing of shops movement has spread to the Continent, judging by the heated controversy thereon at present proceeding at Geneva and in other Swiss towns where "social reformers" are pressing for legislation on even more drastic lines than the Legislature has permitted in England. An article upon the subject in a Geneva newspaper deals scornfully with a proposed new law now being submitted to a plebiscite which is described as an "iniquitous attempt to ruin the tradespeople" and to make Geneva a "dead city at night." Under this proposed law no consumer is to be allowed to purchase either bread or milk after 7.30 p.m. All shops, arcades and kiosks are to be closed at that hour, including even restaurants, creameries and fruit shops. No stalls or barrows are to dispense their wares; the sale of ices, chocolates, etc., in cinemas is to be stopped, and generally all retail trading is to cease at the appointed hour. The journal in question ironically points to the fact that the president of the "committee of action" which has inspired this drastic reform is himself the head of a large retail establishment which occupies his energies during the day but closes early, thus enabling the president himself to act as a professional State lecturer from 8 to 10 each evening! From returns at present received it appears probable that the measure will fail to secure sufficient popular support to ensure its confirmation. It would be interesting to see what would be the result of a plebiscite on the same question in England!

Acknowledgments and Rights of Light.

By E. O. WALFORD, LL.B., Solicitor.

Some time ago, a client who had entered into a contract for the sale of certain houses, sent to his solicitor, with the engrossment of the conveyance which he had executed, another document which he thought "should perhaps have been put with the deeds." Examining the document in question, his solicitor discovered that it was dated about eighteen years previously and contained an acknowledgment that the light flowing to certain windows in the premises agreed to be sold was enjoyed by permission of the adjoining owner to whom a nominal yearly rental of 6d. was to be paid, if demanded, in respect of such enjoyment, the adjoining owner being at liberty to determine the agreement at any time upon giving six calendar months' notice. The vendor's solicitor was, perhaps not unnaturally, a little alarmed that this document had not been disclosed prior to contract. Nevertheless, upon looking into the authorities, he was able to advise that no objection could be taken on behalf of the purchaser.

In *Greenhalgh* v. *Brindley* [1901] 2 Ch. 324, A had agreed to sell to B the freehold of a number of houses in Florence-street, Stockport. Both parties were aware that these windows had only existed for about four years, and the purchaser having inspected the property was aware that the windows gave south across Florence-street, which was about 18 feet wide, over a recreation ground belonging to the local corporation who were bound by certain restrictive covenants to use the land, except with the written consent of their predecessors in title, for the purpose of a public recreation ground only, being prohibited also from erecting any buildings upon it, except such as were approved in writing by their predecessors in title as necessary or proper for the recreation ground. Nothing was said during the negotiations between A and B, or in the contract, as to the enjoyment of the access of light to the windows; but on investigation of the title it appeared that A had agreed some eight months before the date of the contract to pay to the corporation a yearly acknowledgment rental, it being declared in the agreement that each yearly payment should be a fresh acknowledgment that the vendor was not entitled as of right to the flow of light to the windows. B, the purchaser, refused to complete except upon payment of compensation; and A thereupon commenced proceedings for specific performance. It was argued on A's behalf that the deed of acknowledgment did not bind the land, and that B was not bound to pay the acknowledgment rental, but could determine the agreement at any time. On behalf of B it was urged that the deed of acknowledgment, being a restriction upon one of the natural incidents of the ownership of the houses, namely, the potentiality of prescribing for light, should have been disclosed before contract; and, that as the acknowledgment constituted an agreement within s. 3 of the Prescription Act, 1832, the purchaser, B, having notice of it, was bound by it; *Bewley* v. *Atkinson* (1879), 13 Ch.D. 283, being quoted as an authority for this view. It was also urged that even if B was not bound to pay the acknowledgment rental, he could never acquire an easement which might have been acquired if no acknowledgment had been given. It was suggested that B was entitled to assume that four years of the prescriptive period had already run, as the windows had existed for four years. It will be seen, therefore, that the purchaser's counsel was contending for a species of inchoate easement. Now, it is manifest that the purchaser could not be bound by A's covenant to pay the acknowledgment rental. The effect of the agreement was, however, to prevent time running under the Prescription Act against the corporation, and notice of repudiation would still allow the corporation twenty years within which to block out the light coming to the windows in question. In other words, the effect of the

deed, so far as the purchaser was concerned, was to delay the running of the statutory period until she repudiated the acknowledgment deed, which she might have done immediately upon completion of the purchase.

As to the complaint that B had lost four years of the statutory period of prescription, and that the probable result of a repudiation of the agreement would be the blocking of the lights at once, Mr. Justice FARWELL observed in the course of his judgment that a contract for the sale of a house with windows overlooking the land of a third person implies no representation or warranty that the windows are entitled to the access of light over that land. In these circumstances, not only was the vendor entitled to an order for specific performance, but the purchaser could not be awarded any compensation. Nevertheless, the remedy sought being an equitable one, and the judge being of opinion that the vendor was under a moral obligation to inform the purchaser, before contract, of the agreement with the corporation, no order was made as to costs. In taking this course the learned judge pointed out that he was following the example of ROMER, J., in *Re Summerson* [1900] 1 Ch. 112 (and see *Hepworth* v. *Pickles* [1900] 1 Ch. 108).

The case of *Smith* v. *Colbourne* [1914] 2 Ch. 533, however, went further in establishing the "non-implication" of a warranty as to the acquisition of rights of light in respect of existing windows, for in that case, at the date when the contract was due for completion the windows had been in existence for the full period of twenty years, and not merely for a part of that period as in *Greenhalgh* v. *Brindley*. Various interesting points arose out of the arguments, which were put before the Lords Justices in the Court of Appeal, in *Smith* v. *Colbourne*. The acknowledgment to which the purchaser objected contained an undertaking by the vendor's testator to block up certain windows upon request, and purported also, in case of default in so doing, to give to the adjoining owner the right of entry for the purpose of removing the windows and filling up the openings. It was submitted that the title could not be forced upon the purchaser for the following reasons:—

(*a*) The property was subjected to a restriction in the nature of a negative covenant which would attach to the land in accordance with the doctrine in *Tulk* v. *Moxhay*, 2 Ph. 774; and

(*b*) The right of entry created an interest in the land in the nature of an easement so as to prevent the vendor from fulfilling his bargain, under which his obligation was to convey the land free from any easement thereover.

Neither of these contentions found favour with the Court of Appeal. The first was rejected upon the ground that the right of entry was either a revocable licence, or was void as infringing the rule against perpetuities: cf. *L. & S.W. Railway* v. *Gomm*, 20 Ch. D. 562. The second contention was dismissed upon the ground that the true bargain was not an agreement to refrain from doing something, but was an agreement to do something involving expense, so that in accordance with the doctrine of *Austerberry* v. *Oldham Corporation*, 29 Ch. D. 750, the liability must be regarded as a personal one not attaching to the land in the hands of the purchaser.

It may be desirable to point out that there was no express undertaking by the vendor's testator not to open any further windows. The view is here expressed that such a covenant would fall strictly within *Tulk* v. *Moxhay*, *supra*, and would thus have formed an insuperable obstacle to an order against the purchaser decreeing specific performance. As, however, any further windows opened in the same side of the building would be subject to the like possibility of obstruction, it will be seen how artificial is the distinction between the two cases. There was, indeed, a negative covenant in the agreement in this case to the effect that the windows should not open outwards; but it appeared that the windows when opened would have projected over the adjoining owner's land, and accordingly that provision could not in fact abridge the rights of the purchaser, and was therefore, not an "effective" covenant, inasmuch as it merely purported to restrict the purchaser from doing something which he had no legal right to do.

The Court of Appeal unanimously adopted the principles stated by Mr. Justice FARWELL in *Greenhalgh* v. *Brindley*, *supra*, and it must, therefore, be taken as settled law that a contract for the sale of land implies no warranty either (*a*) that the windows in premises contracted to be sold are entitled to rights of light over the adjoining land of a third party, or even (*b*) that the vendor has not entered into an agreement which has prevented the statutory period from commencing or continuing to run, notwithstanding that the windows have in fact existed and enjoyed an unrestricted flow of light for upwards of twenty years. It is further clear that no compensation will be awarded to the purchaser on account of the non-disclosure of such an agreement.

Certain dicta in the older case of *Bewley* v. *Atkinson*, *supra*, in passing, are capable of interpretation as implying that a purchaser with notice of such an agreement takes subject to, and is irrevocably bound by it; but in so far as such an inference is possible, it must be taken that those dicta are to be disregarded since the decision of the Court of Appeal in *Smith* v. *Colbourne*. The actual decision in *Bewley* v. *Atkinson*, however, was that the purchaser was bound only to this extent, namely, that as he had not expressly repudiated the agreement, he was deemed to have enjoyed the light by consent or agreement so as to prevent the statutory prescriptive period from running, and this notwithstanding that he had not in fact paid the acknowledgment rental. In that case JAMES, L.J., indicated that such agreements were binding upon all persons who took the property *with notice* of the acknowledgment. This must not, however, be construed as meaning that a purchaser completing his purchase *without* notice of the agreement, could claim that the statute had been running in his favour prior to the acquisition by him of the property. On the contrary, the absence of notice would have no bearing upon this matter. The question of notice might, however, be of importance in the following circumstances. A gives an acknowledgment to X in respect of the access of light to certain windows in A's house. B subsequently purchases A's house. Upwards of twenty years after the purchase X commences to obstruct the access of light to the windows. Now, if B has previously had no notice of the acknowledgment agreement and has accordingly paid no rent under it, he may successfully claim that he has enjoyed the access of light in such circumstances as to entitle him to the benefit of the prescriptive period. If on the other hand it can be shown that he had notice of the agreement when he purchased, then he will be deemed to have enjoyed the access of light by consent or agreement thereunder, notwithstanding the fact that he has failed to pay the acknowledgment rental (see *Bewley* v. *Atkinson*, *supra*, which is a direct authority to this effect).

In conclusion it is suggested that it is the practitioner's duty, having regard to the above authorities, to add to the usual inquiries made *prior* to contract the question whether the light flowing to any windows or openings in any of the buildings upon the land comprised in the sale is enjoyed (*a*) as of right, or (*b*) by consent or agreement, a copy of any document of acknowledgment evidencing such consent or agreement being called for if the answer to inquiry (*b*) is in the affirmative. Admittedly such an inquiry is unusual; but it would nevertheless appear to be desirable. The tendency at the present day is undoubtedly to deliver many more "preliminary inquiries" prior to contract, and it is quite possible that in the course of time it may become the practice to deliver all "formal" requisitions prior to contract. At the present time requisitions on title consist mainly of inquiries having very little relation to the title deduced. Later, perhaps, they will become requisitions on title in fact as well as in name, all formal inquiries being disposed of before the exchange of contracts.

Fundamental Laws of the British Empire.

PERHAPS the qualities which have served the Englishman best in his permeation of the world are a certain good-natured tolerance, and a well-developed sense of justice, which he cannot be bribed to betray. The tolerance of any civilised nation, however, has, or ought to have, its limits. As an example of something beyond our own, the Hindu custom of "suttee" perhaps serves as a good illustration. The Englishmen who came to India under the auspices of the old company were primarily traders, naturally bent on their own gain, and unwilling to do anything to make themselves unpopular, and so hinder business. The fate of the hapless Indian widows, condemned by a cruel religious custom to commit suicide on their husbands' funeral pyres, was nevertheless too much for British forbearance, and the thing was forbidden. It might have been better business to let it alone, for it was strongly rooted in religious sanctions, and the English themselves not only gained nothing, but incurred the wrath and resentment of Brahmins and priests by their veto. For their own honour, however, they could not suffer such a custom to continue in any territory where they had the power to abolish it.

In the same way it was enacted nearly a hundred years ago that "slavery shall be and is hereby utterly and forever abolished and declared unlawful throughout the British Colonies, Plantations, and Possessions abroad"—a cleansing ordinance which cost £20,000,000 in compensation to slave-owners alone. Thus the vetoes on religious customs involving murder, or on trading and domestic law or custom involving servile contracts (as recently alleged in respect of those made in Shanghai for young girl servants), may be regarded as two fundamental laws of the Empire. It is perhaps unnecessary to add that cannibalism is another custom which is not tolerated, though its furtive practice may be difficult to abolish in some parts of Africa. So the Juggernaut processions in India, in which fanatics cast themselves to the ground to be crushed by the wheels of the car which bore the idol, were abolished. Put shortly, religious or domestic customs involving murder are not tolerated in the British Empire. As throwing light on where the line is or should be drawn, a recent case from Africa is of considerable interest. Three brothers rose in rebellion against a native chief, and attempted to overthrow and kill him. He crushed their rebellion, and, after council with his chiefs according to Bechuanaland tribal custom, sentenced two of them to ten years' imprisonment, and decreed that their houses should be burnt down. The decree was carried out, and they appealed to the Privy Council for damages for the destruction. The Crown intervened in their favour, and contended that a custom to inflict such a punishment was incompatible with peace, order, and good government. The Privy Council nevertheless held that, although the custom was one of which the judges strongly disapproved as individuals, they were not prepared to rule that it was one which could not be tolerated under the British flag. A civil action for damages in such circumstances, therefore, did not lie. It may perhaps be assumed, however, either that the Royal assent would not be given to a Colonial law prescribing or allowing for such a punishment, or that the Privy Council would declare that it could not be enforced, though *Tilonko* v. *A.-G. of Natal* [1907] A.C. 461, might be cited against this contention. The burning of farms in reprisal for treachery in the South African War was, of course, a matter of martial law, which, by reason of necessity, is not controlled or limited.

The abolition of slavery involved personal liberty, and the unjust deprivation of liberty, whether on the pretext of a contract of employment or otherwise, is again repugnant to our law. To ensure that it is obeyed in this respect, we have evolved the machinery of habeas corpus, and set such store by it that the writ runs throughout the Empire. For the sake of convenience, however, the Habeas Corpus Act of 1862 provides that the writ shall not issue out of England to places within the Empire where courts have been given power to grant and issue such writs themselves. This Act was probably passed to over-rule the decision in *Ex parte Anderson* (1861), 3 E. & E. 487, in which a writ was issued from the Queen's Bench to Canada. No doubt it was felt that the issue of the writ was hardly consistent with the dignity of the local courts. Its use in Protectorates under the British Crown was discussed in *Re Sekgome* [1910] 2 K.B. 576, another Bechuanaland case, in which it was held that that Protectorate was a foreign country in which His Majesty had jurisdiction within the meaning of the Foreign Jurisdiction Act, 1890. Coming to the most recent case of all, it has just been held that an appeal to the Privy Council lies from a Trinidad decision refusing liberty to certain French prisoners who had escaped from the "Devil's Island" penal settlement.

In considering law applicable to the British Empire the Fugitive Offenders Act of 1881 may be mentioned, but it can hardly be regarded as a matter peculiar to our racial genius, for it is merely a local form of the extradition law now adopted by all civilised countries. Another statute which extends to all the Empire, the Foreign Enlistment Act of 1870, is hardly within the present scope, for it was passed not as a matter of the internal justice of the Empire, but to prevent the King's subjects from involving the nation in heavy liability for damages to a friendly nation through a private filibustering expedition, as painfully brought home to the taxpayer in the Alabama case. In respect of the major Dominions this law may perhaps be found less necessary than formerly, since foreign countries can now deal direct with their accredited representatives.

As above shown, the Englishman has the satisfaction of knowing that neither murder nor slavery is lawful under his flag. Whether there is any other custom or law so repulsive to our genius that it would be deemed intolerable under our flag is a question which perhaps hardly admits of a complete answer. Our own laws as to humanity and kindness, perhaps, lead the way, and, in respect of cruelty to animals, for example, or even cruelty to children, we cannot expect Asiatics and Africans whom we rule to attain to our standard. Some would no doubt like to think that judicial torture was impossible within the Empire, but "torture" is a question-begging word, and the infliction of pain by sentence of law is still recognised even here, where flogging by the "cat" is, and is meant to be, a severe ordeal. We object to the rack, the thumb-screw, the bastinado, and also to public punishments like the pillory, and the stocks. It seems hardly likely that any of these punishments would be revived to be inflicted on white people, by courts using our language, anywhere within the British Empire, but that is not saying that an Act reviving the pillory would be *ultra vires* in a Dominion. In fact, public floggings have practically been abolished in England only within living memory, and may even be still lawful in certain cases of treason, or under the Vagrancy Act of 1824, for persons found to be "incorrigible rogues."

Similarly, many people would like to see a uniform and fairly high "age of consent" established for the Empire, and the prohibition of child marriage. The custom of Hindus in this matter is one which sorely disturbs humanitarians, and, if half Miss MAYO's last book is true, the Sarda Act is quite illusive as a protection to girlhood.

One very natural hindrance to any kind of uniform law for our Empire is the objection of our larger Dominions to legislation imposed on them without their consent by an external body on which they are not represented. It is certainly to our interest to devise machinery to overcome that hindrance. No doubt good work is done at the informal colonial conferences which occasionally take place, but the great task of evolving a legislative body acceptable to the whole Empire has not been attempted. Were such a body formed, it would involve

abdication by our own parliament of extra-territorial legislation, and something like a constitution. The average Englishman, mindful of prohibition and other American troubles of a similar nature, naturally hesitates at the idea, but perhaps the difficulties of America might guide him to avoid certain pitfalls in legislation, due to over-confidence in the ability to enforce ideals of conduct on those who do not share them.

The Land Value Tax.

By W. E. WILKINSON, LL.D. (Lond.).

III.—OBJECTIONS AND APPEALS.

In the first article in this series it was shown that the Finance Act, 1931, s. 10, provides that all land in Great Britain not specifically exempted will be chargeable with land value tax at the rate of one penny in the pound commencing with the financial year ending the 31st March, 1934, but that such tax will be chargeable only on the amount ascertained after the land value of the land has been reduced in the manner provided by s. 18 of the Act.

In the second article it was shown that the land value of a land unit as defined in s. 11 (3), ascertained in accordance with the principles laid down in s. 11 of the Act, will, in the case of the first valuation, be the market value of the land as at the 1st January next.

Notice of the first valuation will be served on the owner. Where a lessee is owner, that is, where he holds under a lease originally granted for a term exceeding fifty years which has commenced (s. 31 (1)), notice of the valuation will also be served on the reversioner if he has notified the Commissioners in writing of his desire to receive such notice. The reversioner will be interested in the valuation because the lessee will in most cases be able to recover from him at least a part of the tax (s. 20).

Objections.

If the owner agrees with the valuation, there will, of course, be nothing further to be done by the owner. If, however, the owner does not agree with the valuation, then it will be for him to lodge an objection to the valuation with the Commissioners of Inland Revenue in the manner laid down in s. 14 of the Act. What is said here as to the right of objection and appeal by an owner will apply equally to a reversioner in cases where a lessee is owner of the land (s. 20 (5)).

Before an owner can appeal against a valuation he must first have given to the Commissioners of Inland Revenue notice that he objects to the valuation. In other words, an objection is a condition precedent to appeal.

It is important to bear in mind that (apart from the question of the right of a reversioner to object to the valuation), objection to a valuation can be made only by an owner, that is, the owner of the legal estate in the land. The owner may, of course, be a beneficial owner, a personal representative, or a tenant for life or other trustee. A mortgagee (although in certain circumstances liable to be charged with the payment of the tax (see s. 17)) is not an owner for the purposes of the Act, and consequently, has no right of objection or appeal.

The owner may object to the land value or to the cultivation value shown by the entries in respect of the land unit inserted or proposed to be inserted in a land values register or to the omission from the entries of any cultivation value. The notice of objection must be in writing, and must state the grounds thereof and the owner's estimate of the land value of the unit and of the cultivation value of any agricultural land (s. 14 (1)), and must be served within forty-two days after the service of the notice of valuation (s. 14 (3)).

It will be remembered that where a land unit has been divided into two or more parts in different ownership, the Commissioners may apportion the land value and the cultivation value (if any) shown by the entries in respect of the former land unit as between the several parts thereof (s. 13 (1)). In such a case, the only objection that can be made is that the value or values have been wrongly apportioned. No objection can be made by any owner as to the value or values of the former land unit (s. 14 (1)). If two or more pieces of land in different separate occupations, but belonging to the same owner, are amalgamated by the Commissioners to form one land unit, the owner may object to their being so treated (s. 14 (2)).

Upon any such objection being made, the Commissioners must either cause the entries objected to to be amended in agreement with the owner, or give to him notice of their refusal to do so (s. 14 (3)).

Appeals.

If the Commissioners do not agree to the amendment of the entries as desired by the owner, then, within such time, not being less than forty-two days, as may be prescribed by rules, after the notice of refusal has been served, the owner may appeal to one of the panel of referees appointed under Pt. I of the Finance (1909-10) Act, 1910.

Rules may be made relating to appeals to referees, and such rules may provide (*inter alia*) for limiting the number of expert witnesses to one on each side, except where the referee otherwise determines (s. 14 (6)). This follows the practice under the Acquisition of Land (Assessment of Compensation) Act, 1919, and the Landlord and Tenant Act, 1927.

On the hearing of the appeal the referee may direct the Commissioners to cause such alterations as he thinks proper to be made in the entries appealed against, whether by increase or decrease of any value shown therein, and whether in conformity with or adverse to the contention of any party to the appeal (s. 14 (7)). He may also order the costs of the appeal to him incurred by any party to the appeal to be paid by any other party thereto. Any such order as to costs will have effect as if it were an order of the High Court, save that it cannot be enforced as such except by leave of that court or of a judge thereof (s. 14 (8)).

The decision of the referee on a question of fact is final. But on a question of law (which includes a mixed question of law and fact) the same procedure will apply as in the case of appeals to General or Special Commissioners in Income-Tax cases. It is, therefore, provided that immediately after the determination by the referee of any appeal, any party to the appeal may, if dissatisfied with the determination as being erroneous in point of law, declare his dissatisfaction to the referee who heard the appeal, and having done so, may, within such time as may be limited by rules of court, require the referee to state and sign a case for the opinion of the High Court, or, where any party so elects, and the land value of the unit in respect of which the dispute arises does not, as shown in the entries, exceed £500, of the county court for the district in which the unit or any part thereof is situate (s. 14 (4)).

An appeal to the High Court will be heard by a single judge to be nominated by the Lord Chancellor for that purpose (s. 30 (3)).

Either party will have a right of appeal from a decision of the county court direct to the Court of Appeal (s. 30 (3)).

(*To be continued.*)

MIDLAND BANK EXECUTOR AND TRUSTEE COMPANY LIMITED.

NEW BRANCH IN BRISTOL.

The Midland Bank Executor and Trustee Company Limited, which is affiliated with the Midland Bank Limited, announces the opening of a new branch at 51 Corn Street, Bristol, under the management of Mr. A. H. Clarke. In addition to the head office in Poultry, London, E.C.2, the Midland Bank Executor and Trustee Company has branches in Birmingham, Bournemouth, Leeds, Liverpool, Manchester and Newcastle-on-Tyne.

THE PERMANENT COURT OF INTERNATIONAL JUSTICE.

A READING

Delivered before the Honourable Society of the Middle Temple, on 11th June, 1931,

BY

Sir CECIL HURST, G.C.M.G., K.C.B., LL.D. (Hon.), LL.M.,

Judge of the Permanent Court of International Justice; Lent Reader, 1931.

THE TREASURER, SIR ALFRED TOBIN, IN THE CHAIR.

(Continued from page 557.)

Even in the case of disputes between states, it is sometimes convenient for them to get the question referred to the Court by the Council in this way. You may remember an acute difference of opinion between France and Great Britain ten years ago as to the right of France to convert British subjects born in Morocco, a French Protectorate, into French citizens and impose upon them the duty of serving in the French military forces; a dispute which Great Britain was forced to bring before the Council of the League. In that case it was convenient to the two Governments, particularly to the French Government, that instead of coming to an agreement for the reference of the legal point at issue to the Court, the Council should ask the Court for an advisory opinion upon it.

In some countries—not, I am glad to say, in Great Britain—a special agreement with another state for the reference of a dispute to arbitration or to judicial settlement requires parliamentary approval before it can be ratified. If popular opinion is excited, it may not be easy to secure such parliamentary approval. Public opinion is apt to be extremely sensitive in cases where it is proposed to refer to international adjudication matters which affect the national sovereignty. Consequently, a method by which a question can be referred to the Court without the necessity of obtaining the consent of the legislature has its conveniences.

On the other hand, from the point of view of the Court, the system of having cases referred to it in the form of a request for an advisory opinion has its disadvantages. There are no parties in the proper sense of the word in such a case; there are no states which have shouldered the responsibility of seeing that the case is properly presented to and argued before the Court; and in cases such as those relating to the observance of the provisions of treaties for the protection of minorities or for the enforcement of the provisions of a mandate where the treaty obligation has been contracted towards a whole group of states and the task of seeing to its observance is somewhat invidious to the individual members of the group, the system of asking for an advisory opinion instead of instituting contentious proceedings presents a convenient method of evading a part of the burden.

The procedure before the Court at The Hague is not unlike that in use in this country before the House of Lords. There are two phases, the written and the oral. The first consists of the filing with the Court of printed cases and counter-cases on either side; the second, of the oral arguments. In the advisory cases there is sometimes only one printed pleading on either side, not two.

The practice and procedure before the Court are still in the stage of development. We are a long way from having reached finality. To an English lawyer the rules would seem a little loose, but it must be remembered that the Court has not the same measure of authority as a national court exercising jurisdiction over individuals by virtue of the sovereign power of the state.

Where the parties before the Court are states, and the individuals who appear are the representatives of Governments, they cannot be ordered about in the way that judges can order people about in this country.

There is no power to make an order for "discovery of documents" or for "interrogatories" in the practice of the Court. Governments cannot be forced to produce documents against their will. All that the Statute can do is to say that the Court may call upon the agents to produce any documents or supply any explanation, and that formal notice shall be taken of any refusal.

Again, the Court has no Bar: no body of men who are entitled to an exclusive right of audience, and who are subject to the control and the discipline to which the members of the Bar are subject in their own country.

All that the Court has to rely on is the general feeling which prevails in civilised countries that the Court and its authority must be upheld and that Governments are pledged to do so.

Still the practice is steadily shaping itself on to more satisfactory lines, and this tendency will increase as the authority of the Court and the experience of its judges increases.

The oral arguments in a case before the Court are almost always delivered in French or English. Other languages may be used with the consent of the Court, but when such permission is given, the party using such other language has to provide an interpreter who translates the speech into French or English, and it is the translation of the interpreter which becomes the official text of the argument. I think that it is for this reason that states concerned in a case find it better to have any argument which may be made on their behalf delivered in one of the official languages. No matter how good the interpreter may be, an argument loses much of its force when it has to be considered in a translation.

The oral arguments do not play quite such an important part in cases before the Court as they do in cases in this country. I put this down myself in part to the language difficulty. There are only four nations in the world whose representatives can argue cases in their own language, and it is probably true to say that the ablest counsel in any country would hesitate to argue a case in a foreign tongue. An additional reason is that it is only quite recently that a judge has been able to ask a question of counsel during the argument. Until this change was made, the judges had no means of clearing up a point in the argument which they did not quite understand, nor had counsel the advantage of learning from some question which might be put to him what exactly was passing in the minds of the judges and what were the points to which it would be wise for him to address himself.

Another reason—and this, again, may be due to the language difficulty which I have mentioned above—is that so frequently cases are argued before the Court by professors, and professors do not make good advocates. The business of an advocate is to convince, but the habit of a professor is to lecture, because his task is to instruct. Judges want to listen to something more than mere assertion.

Certainly my own experience is that I have not found the oral arguments delivered in cases before the Court so helpful as I should have expected. It is but rarely that one hears the closely-reasoned argument that is prevalent in an English Court.

When the oral arguments are over, the stage is reached when the judges begin to consider their decision, and at this stage the procedure is slow and cumbrous. After a period for the re-examination of the printed pleadings and the oral arguments, the judges meet for a preliminary discussion of the points at issue. After that, every member of the Court writes out at length a reasoned individual opinion embodying what is, in his view, the proper decision for the Court to give. These are circulated to every other member, and time is given for their consideration. After that, the judges meet again and discuss and take a decision upon every material point on which the judgment must be founded. When these meetings are concluded, a little drafting committee is appointed by secret ballot to draft the judgment; this again is circulated for consideration, and opportunity given for proposing amendments. It is then discussed and, if adopted by the majority of the judges, it becomes the decision of the Court. Those who feel unable to agree, either with the decision itself or with the reasons upon which it is based, may prepare and deliver a dissenting opinion.

As I said just now, this procedure is slow and cumbrous. If the Court was in any way surcharged with work, it could not be maintained, but at present, while there is no great pressure of work, it has its advantages and it would be a pity to change it. Remember, that if you have fifteen judges in the Court, you have fifteen different national and mental outlooks, fifteen different trainings to reckon with. To get fifteen differing mentalities to work on the same plane must be in any case a slow business.

Furthermore, the plan which the judges now follow in their deliberations entails longer periods of residence at The Hague for the judges, and that helps to ensure the Court being always available when required. The important point, however, is that this slow procedure ensures meticulous care as to the decision. It is a guarantee to all nations of fairness, impartiality and thoroughness in the work of the Court. It ensures to every member of the Court full and equal participation in its work; it excludes all possibility of some of the judges thinking that they do not count for as much as more active, or more overbearing, colleagues. It helps to make the world at large realise that in the Court as well as before the Court, the principle of the equality of states is maintained, and from the point of view of the state which may be unsuccessful in a dispute, and which may be obliged to accept an unpalatable verdict, it is an advantage that the complete impartiality of the Court should be widely recognised.

In conclusion, let me remind you that now that Great Britain has accepted the obligatory jurisdiction of the Court, it is certain that from time to time she will find herself cited before it. She will not always be the victorious litigant, and if the decision goes against this country in some case which has attracted widespread interest, and which is felt to touch closely upon the national interests, there may well be an outcry on the part of the populace, an outcry which might become serious unless the well-informed can steady the opinion of the crowd, and can keep it from thinking that the Court was necessarily in the wrong, because it did not decide in Great Britain's favour. It is for this reason that I venture to think that the legal practitioners of this country should know what there is to know about the Court; if the Court is to play a part in the normal international life of this country, the lawyers at least must have confidence in it, and without some knowledge of it there can be no confidence.

(*Concluded.*)

Judge Charles Gurdon, of Brook-street, Grosvenor-square, W., late County Court Judge on the Plymouth and Cornwall Circuit, left estate of the gross value of £32,074, with net personalty £31,676. He bequeathed £500 to the Barristers' Benevolent Association and an annuity of £60 to W. G. Gooding Field, of Mannamead, Plymouth, late Bailiff of Plymouth County Court.

Obiter Dicta.

MR. AUGUSTINE BIRRELL, our most accomplished living essayist, has never allowed us to forget that he was nurtured in the law and spent many years in its practice in Lincoln's Inn. Many allusions in the essays testify to this fact, as also do the titles, borrowed from the terminology of the law, with which he has equipped several of his volumes. His first collection of papers, issued anonymously, but which was at once recognised as the handiwork of one who knew English literature intimately and possessed the pen of a ready writer as well as the quaint fancies of a true humorist, was published under the title "Obiter Dicta," and bore on its front page the following quotation: "An *obiter dictum*, in the language of the law, is a gratuitous opinion, an individual impertinence, which, whether it be wise or foolish, right or wrong, bindeth none, not even the lips that utter it." This utterance, quaintly applied by Mr. BIRRELL to his own critical pronouncements, is attributed to an "Old Judge," and is, indeed, an accurate explanation of what an *obiter dictum* is. Its author has had many successors on the judgment seat who have repeated in substance, if not in the same language, their condemnation of the sayings by the way which we call by their Latin name, "*obiter dicta*." That great judge, Sir GEORGE JESSEL, in *Wallis* v. *Smith*, 21 Ch. D. 243, expressed himself thus: "I distrust *dicta* in all cases and especially *dicta* during argument." A greater master of language, if not a greater lawyer, Lord Justice BOWEN, said, in *Cooke* v. *New River Co.*, 38 Ch. D. 56: "I am extremely reluctant to decide anything except what is necessary for the special case, because I believe by long experience that judgments come with far more weight and gravity when they come upon points which the judges are bound to decide, and I believe that *obiter dicta*, like the proverbial chickens of destiny, come home to roost sooner or later in a very uncomfortable way to the judges who have uttered them, and are a great source of embarrassment in future cases." Was it the same learned judge, or was it Lord BRAMWELL, who declared that there ought to be a statute of limitations for a judge's *obiter dicta*? And yet, despite all this disapproval of these sayings by the way, judges will go on uttering them, oftentimes to the disturbance of the student's legal notions, for how is he to know that what is said by a judge is a mere *dictum*, which is not part of the decision, and therefore may properly be disregarded? Mr. GOODHART throws some light on this when in his "Essays in Jurisprudence and the Common Law," he says: "A conclusion based on a fact, the existence of which has not been determined by the court, cannot establish a principle. We then have what is called a *dictum*. If, therefore, a judge in the course of his opinion suggests a hypothetical fact, and then states what conclusion he would reach if that fact existed, he is not creating a principle. The difficulty which is sometimes found in determining whether a statement is a *dictum* or not, is due to uncertainty as to whether the judge is treating a fact as hypothetical or real. When a judge says, 'In this case as the facts are so and so I reach conclusion X,' this is not a *dictum*, even though the judge has been incorrect in his statement of the facts. But if the judge says, 'If the facts in this case were so and so then I would reach conclusion X,' this is a *dictum*, even though the facts are as given." The mere fact that it is not always easy to separate the grain of the decision from the chaff of the mere *dictum* is surely a cogent reason why judges, even the most eminent, should restrain their legal ardour and confine their energies to deciding the points which really arise for decision. It is true that the *dicta* of judges like BARON PARKE or Mr. Justice WILLES have often been found useful, but the majority of judges are neither PARKES nor WILLES, and consequently they would be wise not to go beyond their last.

Mr. Francis A. Cuprey, solicitor, of Ewell and Buckingham-gate, S.W., left £91,623, with net personalty, £91,372.

Company Law and Practice.

XCI.

(*Continued from p.* 549.)

TRANSFERS OF SHARES.

Last week we touched upon the rights of the directors of a company to refuse to register a transfer of shares which was not stamped with the correct *ad valorem* duty, and here these rights may conveniently be enlarged upon. The leading case on the subject is that of *Maynard* v. *The Consolidated Kent Collieries Corporation Limited* [1903] 2 K.B. 121, where a transferee of shares in the defendant company brought an action against the company for the damages sustained by him by reason of the company's refusal to register the transfer. The directors of the company had refused to register the transfer, and one of their reasons for justifying this refusal was that the consideration for the transfer was not duly stated on it, and that it was not properly stamped; the fact was that a certain consideration was stated on the face of the transfer, and that it was stamped with the *ad valorem* duty appropriate to that consideration, but, in the words of Collins, M.R., at p. 128: "the secretary, having heard the parties refer to what had passed between them, came to the conclusion that the consideration was not truly stated, and that there had been other payments than that stated on the face of the transfer, and that therefore the transfer was in effect a bad one." It was held by the Court of Appeal that the company were entitled to refuse to register the transfer, and that, for the purpose of arriving at the conclusion as to whether or not they should refuse to register, they were entitled to go behind what appeared on the face of the document.

Section 14 (4) of the Stamp Act, 1891, provides that, subject to certain exceptions not material hereto, an instrument not duly stamped in accordance with the law in force at the time when it was first executed is not, with certain exceptions, to be given in evidence or to be available for any purpose whatever. Now it is quite clear that the transfer is an instrument which the company may very well at some time or another require to put in evidence. "In the first place," says Stirling, L.J., in his judgment at p. 131, "the transfer is to be such an instrument as may be used by the company as a means of enforcing the obligations of the transferee, if ever it becomes necessary on the part of the company to enforce them; and, in the second place, it is to be a document which, if acted on, will justify the company in the alteration of the register if that alteration should ever be called in question in a court of justice. It appears to me in these circumstances that the company cannot be called upon to register a transfer which would not be available to them in a court of justice, if they were desirous of making use of it either for the purpose of enforcing their rights against the transferee or of defending themselves if attacked for what they have done on the faith of it." The learned Lord Justice then refers to the somewhat analogous case of the examination of title to real estate; one of the most important tasks of the conveyancer on examining an abstract is to see that the stamps on the various documents forming links in the title are adequate for their purpose, and there is clear authority, if such were needed, that a purchaser is entitled to object to the title to realty on the ground that a document of title is not stamped, or is insufficiently stamped: see *Whiting* v. *Loomes* (1883), 17 Ch. D. 10.

But though the decision in the *Consolidated Kent Collieries Case*, *supra*, is one of some importance to companies it is one which has to be looked at from the practical point of view, and in the vast majority of cases (although it is clearly the duty of the company by its proper officer to ascertain that every transfer presented for registration is duly stamped) the company will accept the transfer if the stamp is appropriate to the consideration expressed on the face of the transfer. Indeed, if companies were to make enquiry in every case as to whether the consideration stated in the transfer was in fact the proper consideration, the commercial activities of the country would be very much retarded, while the popularity of the joint stock company would hardly tend to increase. Usually the company will be in a position to say, at least approximately, what the value of its shares at any particular instant is, and consequently, if a consideration of somewhere about that amount appears on the transfer, it is probable that it is correct. In the case, of course, of private companies, where shares are but rarely bought and sold, this approximation may not be possible, but no doubt an estimate can be formed for the guidance of the company in such a matter. Not infrequently in private companies the price of transfer is fixed, and when that is so, no question can arise, except in a case where some collateral bargain was entered into by the parties to the transaction. There may be cases where the company would be wise to get the transfer adjudicated, as in the case of voluntary dispositions within s. 74 of the Finance (1909-10) Act, 1910, but, even if the company does register a transfer not duly stamped, it might still, if it was necessary to put it in evidence, pay the duty and penalty, in accordance with a decision to which I will refer next week.

(*To be continued.*)

A Conveyancer's Diary

Trustees as Statutory Owners—Vesting on Appointment of New Trustees.

There is a question which I have intended to tackle in this "Diary" before and have often discussed with other conveyancers, but have not been able to make up my mind about it. Now it has been put to me in actual practice and I am forced into expressing an opinion one way or the other, so I may as well make it the subject of this week's "Diary."

Under a settlement created before 1926, A who was then and still is an infant, is tenant in tail. In 1926 B, C and D, the then trustees of the settlement for the purposes of the S.L.A., 1925, executed a vesting instrument by which they declared that the settled land was vested in themselves; that they should stand possessed of the settled land upon the trusts upon which under the settlement or otherwise the same ought to be held; and that they were the trustees for the purposes of the S.L.A., 1925.

C and D died, and B by deed appointed E and F to be trustees, in the place of C and D, and jointly with himself.

B, E and F then executed a deed of declaration which was expressed to be supplemental to the vesting deed and recited the deaths of C and D and the deed of appointment of E and F to be trustees in their place. The deed then declared that B, E and F were the trustees of the settlement for the purposes of the S.L.A., 1925.

There has been no conveyance or vesting instrument executed in favour of B, E and F.

The question is, can B, E and F make a good title to convey to a purchaser?

To put it in general terms—where trustees are statutory owners and one of them dies and a new trustee is appointed in his place, is it necessary to have a conveyance from or vesting deed in favour of the surviving trustee or trustees to himself or themselves and the new trustee in order that the latter may convey in exercise of the statutory powers?

In the first instance, I will endeavour to put the main contentions for the negative.

Section 23 (1) of the S.L.A., 1925, provides that, where under a settlement there is no tenant for life nor, independently of that section, a person having by virtue of the Act the powers of a tenant for life, then—

(*a*) any person of full age on whom, etc., and

(*b*) in any other case the trustees of the settlement,

shall have the powers of a tenant for life under the Act.

A reference to s. 19 of the Act will make it clear that an infant cannot be a tenant for life, and to s. 20, that an infant cannot be a person having the powers of a tenant for life.

Consequently the powers of a tenant for life are vested under s. 23 (1) (*b*) in the "trustees of the settlement" which, as a matter of construction, must mean "the trustees for *the time being* of the settlement."

It follows (so the argument runs) that whenever there is a settlement under which an infant would, if of full age, be the tenant for life, the trustees *for the time being* of the settlement have all the powers of a tenant for life under the Act.

Then it is said that in such a case as that which I have put, B, E and F are the duly constituted trustees of the settlement, they have, therefore, all the powers of a tenant for life, and a conveyance from them will have the same effect as a conveyance by a tenant for life. The result of that is that under s. 72 (1) of the Act, effect is given to the conveyance "to the extent of the estate or interest vested or declared to be vested in" B, E and F.

That leads to the inquiry—what estate or interest is vested or declared to be vested in B, E and F?

Now, it is not contended that any estate or interest is expressly conveyed or vested or declared to be vested in B, E and F. It is said, however, that the whole estate or interest in the property subject to the settlement is vested in them under s. 40 (1) of the T.A., 1925, which, so far as material, reads:—

> "Where by a deed a new trustee is appointed to perform any trust then—
>
> (*a*) if the deed contains a declaration by the appointor that any estate or interest in any land subject to the trust . . . shall vest in the persons who by virtue of the deed become or are the trustees for performing the trust, the deed shall operate, without any conveyance or assignment, to vest in those persons as joint tenants and for the purposes of the trust the estate interest or right to which the declaration relates; and
>
> (*b*) if the deed is made after the commencement of this Act and does not contain such a declaration the deed shall . . . operate as if it had contained such a declaration by the appointor extending to all the estates interests and rights with respect to which a declaration could have been made."

The contention is (still following the case supposed) that under this section E and F were by deed appointed to perform a trust jointly with B, who had already been appointed to perform the trust, and that consequently the vesting declaration is to be implied in the appointment of new trustees, with the result that, without any conveyance, the legal estate vested in B, E and F, and a conveyance by them acting under the powers conferred upon trustees for the time being of the settlement by s. 23 (1) (*b*) of the S.L.A., 1925, would be effectual to pass to a purchaser the legal estate under s. 72 of that Act.

That view of the matter appears to have the support of the learned editors of "Wolstenholme and Cherry's Conveyancing Statutes," who in a note to s. 40 (1) of the T.A., say: "Where new S.L.A. trustees are appointed (there being a tenant for life or statutory owners who are not also S.L.A. trustees) the appointment will not deal with the settled land; that will remain vested in the tenant for life or independent statutory owners," thereby inferring that where the S.L.A. trustees are statutory owners the section will operate to vest the estate in the new trustees (being statutory owners) without any conveyance.

So much then for the contention in favour of a negative answer to the question which I have propounded.

Before passing to deal with the arguments to the contrary, I may say here that it is contended that there is not any warrant for the suggestion that a "statutory owner" is a distinct entity from a trustee. The expression "statutory owner" means "the trustees of a settlement or other persons who, during a minority, or at any other time when there is no tenant for life, have the powers of a tenant for life, under this Act" (S.L.A., 1925, s. 117 (1) (xxvi)). So it is said the term "statutory owner" means a trustee who has certain powers conferred upon him, and it is, therefore, a mistake to speak of trustees as holding the settled land "in their capacity of statutory owners," because if they hold the settled land at all they hold it under s. 23 (1) of the S.L.A. in their capacity of trustees, but are in that case called or generally referred to as "statutory owners." We shall see how far that may be important.

I must leave the consideration of the contentions in favour of an affirmative answer to our question until next week, but I may say that the conclusion at which I have arrived is that the affirmative answer is the correct one.

Landlord and Tenant Notebook.

Bill-posting Stations.

Questions arising out of contracts for bill-posting sites and advertisement hoardings have been before the courts on three occasions during the last twelve months. In so far as they concern landlord and tenant, they point to the advisability of carefully considering the covenants in the lease before entering into a contract of this nature. The covenants which may affect the question are covenants against carrying on trade, covenants as to building, covenants against alienation and covenants against annoyance.

Normally the contract amounts to no more than a licence (see *Wilson* v. *Tavener* [1901] 1 Ch. 578, and other cases mentioned in THE SOLICITORS' JOURNAL, Vol. 75, No. 11, 14th March 1931), and attempts by landlords to proceed against tenants on the strength of a covenant against alienation have, up to the present, failed; but it is clear from the judgments in the cases in question that under certain circumstances the erection of a hoarding might constitute a breach of a comprehensive covenant of this kind.

That the letting of gable ends was a breach of a covenant against carrying on any trade or business was established in *Tubbs* v. *Esser* (1909), 26 T.L.R. 145. During the same year the Court of Appeal gave careful consideration to the question whether it was an *offensive* trade. In *Nussey* v. *Provincial Bill Posting Co., and Edison* [1909] 1 Ch. 734, C.A., the purchaser of plots of a building estate of a residential character was under covenants to fence off the land by means of a dwarf wall and not to carry on any noisy, noisome or offensive trade, nor use it for a public-house or retail trade. By agreement with him, the first defendants erected a 15-feet high hoarding along the boundary and covered it with advertisements. The Court of Appeal—Cozens-Hardy, M.R., Fletcher-Moulton, and Buckley, L.JJ., were unanimous as to the breach of the first covenant, but Fletcher-Moulton, L.J., very strongly dissented from the view taken by his brethren, and by the court below, that the other covenant had also been broken. The majority held that the covenant must be construed relatively to such a person as would purchase such a plot on such an estate, and that "offensive," having regard to the context, included what was offensive to the eye. In the dissenting judgment, it is pointed out that there was no covenant against using the property for non-residential purposes, and that a scheme could not affect the construction of a covenant; trade was only partially excluded, and "offensive," if it was derived from "offend," yet ought to be construed *ejusdem generis* with "noisy" and "noisome."

The Irish case of *King* v. *David Allen & Sons, Billposting, Ltd.* [1916] 2 A.C. 54, turned solely on the question of lease or licence. The appellant had been sued for breach of an agreement to permit the posting of bills on a building which he had since sold to a picture-house company (of which he

was a director). The draft agreement for sale had assigned the agreement as to advertising, but this had not been executed, and the company refused to grant facilities. The House of Lords agreed with three courts below which had heard the case that no interest in land had been created by the advertisement station agreement, although it used language appropriate to a lease. This case, though not between landlord and tenant, is, of course, an authority relied upon whenever a breach of a covenant against alienation is complained of. The same will apply to *Walter Harvey* v. *Walker and Homfrays* [1931] 1 Ch. 274, which arose out of the compulsory acquisition of land; the first point decided was that an agreement allowing advertising agents to erect illuminated signs on the roof of a hotel, which was for a term of seven years and contained an option to renew for a further five years, and gave the agents access for their purposes, created no proprietary interest or estate in land. These two authorities were cited in *Stening* v. *Abrahams* [1931] W.N. 41, in which the landlord of a shop claimed an injunction on the strength of covenants against alienation and annoyance. The defendant had agreed with advertisement contractors to permit a large and substantial hoarding to be erected over the fascia of the shop, stretching right along the wall. It was fastened by nails, wires, etc. The covenant against alienation was fairly stringent, including the phrase "part with the possession of the demised premises or any part thereof." Farwell, J., held that it did not cover the facts of the case, taking the view that there must be a complete exclusion before possession could be said to have been parted with; at the same time he pointed out that this might conceivably be effected by a licence. Hence, if the covenant be sufficiently stringent, the question of licence or lease would not arise. The plaintiff, however, succeeded on the ground of annoyance.

Gee v. *Hazleton* [1931] W.N. 175, illustrates the position of a statutory tenant in the light of other recent authorities. The protected tenant of a house and land had entered into a seven years' agreement with a third party, giving him the right to erect advertisement hoardings on the land. The agreement conferred an irrevocable licence, and the tenant defended a claim for possession on the basis of not having sub-let. The county court judge gave judgment in her favour, but this was reversed by the Divisional Court, the test now being whether the premises are used for business other than that of the statutory tenant. (*Note.—The Times* report of 23rd June says that the claim was limited to the land used for the hoarding, and this would appear to be more consistent with the authorities: see Landlord and Tenant Notebook of 20th December, 1930, vol. 74, p. 844.)

Our County Court Letter.

THE AGRICULTURAL HOLDINGS ACT, 1923.

(*Continued from* 75 Sol. J. 341.)

III.

(A) *Validity of Service of Notice.*

In *Taylor* v. *Taylor*, recently heard at Oxford County Court, the facts were as follows; (*a*) On the 3rd June, 1929, the tenant had served notice in writing under s. 12 (3) demanding an arbitration as to the amount of rent; (*b*) on the 8th July, 1929, the tenant served notice to quit expiring on the 29th September, 1930; (*c*) the tenant also claimed to have given notice under s. 12 (7) (*b*) of intention to claim compensation for disturbance, but the landlord denied receipt of the notice. The arbitrator found that, on the 30th August, 1930, the tenant had received from his valuer a notice, which he signed, whereupon the tenant's son had enclosed the notice in an addressed enveloped, and placed it in the landlord's letter box. His Honour Judge Randolph, K.C., held that, as the notice was put into the proper receptacle on the landlord's front door, this was a sufficient compliance with s. 53, and the question in the special case was answered accordingly.

(B) *Incidence of Cost of Repairs.*

In *Lord Sandys* v. *Paul*, recently heard at Worcester County Court, compensation was claimed by the landlord on the ground that the value of the property had been diminished by a failure to cultivate the land according to the rules of good husbandry. The tenant, after giving notice to quit, had withdrawn the notice, but had agreed to observe the terms of the original tenancy (of the 10th September, 1920), and the landlord's case was that the liability for dilapidations was therefore not affected. On behalf of the tenant it was argued that the original tenancy had ceased and a new tenancy was therefore created, but His Honour Judge Roope Reeve, K.C., overruled this contention. The question arose, however, as to whether the tenant's liability to repair depended upon the supply of necessary material, and it was held that the landlord should have provided, or been ready or willing to provide, such materials as were stipulated in the original agreement. Each party was ordered to pay his own costs.

CREDITORS' CLAIMS TO PILOTAGE FEES.

In the recent case of *In re Burn*, at Sunderland County Court, the trustee applied for the following orders: (1) for the bankrupt to show cause why two proofs for £510 and £173 should not be admitted; (2) that a proportion of the bankrupt's earnings be set aside for the creditors; (3) that the trustee (in spite of a resolution of creditors) should not apply for leave to appeal against the refusal of a new trial in respect of certain creditors. The case for the trustee was that, at the date of the adjudication in December, 1930, the bankrupt's assets were £675 and his liabilities were £2,579, and he denied owing the additional amounts of £510 and £173, *supra*. These were in respect of law costs incurred in litigation against the directors of a coal-mining company, in which the bankrupt had only been the nominal complainant, the instigators of the proceedings being the two persons whose proofs were in issue. His Honour Judge Richardson pointed out that the bankrupt, having taken full responsibility, was liable for the costs, as there was no legal promise to pay by those who had induced him to embark on the litigation. The two proofs were, therefore, ordered to be admitted. The evidence on the second question, *supra*, was that the bankrupt's earnings had averaged £800 or £900 per annum for the last seven years, but it was held that, as the income was derived from pilotage fees, it was not a salary within the Bankruptcy Act, 1914, s. 51 (2), and no order could be made for the same to be paid to the trustee. On the third question, *supra*, it was held that an application for leave to appeal would result in a waste of assets, and the trustee was directed not to proceed therewith and to act contrary to the directions of the creditors.

Practice Notes.

LIABILITY FOR COLLISIONS IN DOCK.

(*Continued from* 75 Sol. J. 93).

II.

Reserved judgment was recently given in the Liverpool Court of Passage in *The Draig Goch*, arising out of a collision which had occurred in the night of the 18th February, when the above steam tug was passing the mouth of the entrance to the Sandon Dock. Another tug, the *Calgarth*, was being navigated out into the basin, and her stem came into contact with the starboard side (amidships) of the *Draig Goch*. The owners of the *Calgarth* nevertheless claimed damages, on the grounds that (*a*) her master had made signals, to which no reply was received, (*b*) no precautionary measures had therefore been taken on board the *Calgarth*, (*c*) the collision was

due to the fact that no reply was made by the *Draig Goch*, whereby the *Calgarth* was induced to come out of the gateway. The defence was that the damage was evidence of the undue speed of the *Calgarth*, but the presiding judge, Sir W. F. K. Taylor, K.C., stated that (*a*) the damage was probably more of a mechanical or engineering matter than a purely nautical question, (*b*) whether or not he was right in consulting the nautical assessors, he had acted upon his own judgment with regard to the weight of evidence, (*c*) he held that the *Draig Goch* was alone to blame. Judgment was therefore given for the Plaintiffs, with costs.

THE SALE OF AUTOMATIC MACHINES.

(*Continued from* 75 Sol. J. 506.)

II.

In *Craucob Limited* v. *Archer*, recently heard at Shoreditch County Court, the claim was for £28 11s. 6d. as the balance due in respect of a cigarette machine. The price of the latter was £31 1s. 6d., but a deposit of £2 10s. had been paid at the time of the order, which had been taken by the plaintiffs' traveller from the defendant's son. The latter was a minor, however, and the defendant denied that he had authorised his son or anyone else to order the machine, as his business was that of a garage proprietor, and the machine was of no use even as a side line. No agreement had been signed, but the amount at issue had been agreed, subject to the question of liability. His Honour Judge Cluer held that the boy had no authority to order the machine, and judgment was therefore given for the defendant, with costs.

In *Associated Distributors Limited* v. *Thomas*, at Narberth County Court, the claim was for £10 as the price of an automatic machine, but liability was denied on the ground of misrepresentation by the plaintiffs' agent, viz., that their representative would call weekly to keep the machine in order and to supply goods for the machine at reduced prices. His Honour Judge Frank Davies gave judgment for the defendant, but the plaintiffs appealed on the ground that they were only bound by the terms of the contract, which contained a clause to that effect, notwithstanding any representation made or suggested before signature. The Divisional Court (Mr. Justice Swift and Mr. Justice Charles) have recently dismissed the appeal without calling upon counsel for the respondent.

Obituary.

Sir JOHN E. MITCHELL.

Sir John Edwin Mitchell, who was called to the Bar by the Middle Temple in 1910, and who had been Recorder of Rye since 1923, died on Wednesday, the 19th inst., at the age of sixty-six. He was a justice of the peace for Staffordshire, was made an Officer of The Most Excellent Order of the British Empire in 1920, and received the honour of knighthood in 1929. His literary work included the editorship of the tenth edition of Wigram's "Justices Note Book."

Mr. G. H. BOWER.

The death of Mr. George Holme Bower, of Crouch End, which occurred suddenly and peacefully, at the age of seventy-five, on Thursday, the 13th inst., came very unexpectedly to his large circle of friends. Mr. Bower, who was admitted in 1877, was head of the firm of Messrs. Bower, Cotton & Bower, Breams Buildings, Chancery Lane, which firm has been in existence for considerably more than a century. His two sons are the fourth generation to carry on the business.

Mr. A. S. BENNETT.

Mr. Archibald Somerville Bennett, B.A., Oxon, solicitor, died recently at his home in Edgbaston, at the age of seventy-four. Admitted in 1882, he specialised in licensing matters, and held an official position in the Licensed Victuallers' Association.

Reviews.

The Life and Adventures of Carl Laemmle. By John Drinkwater. London: William Heinemann, Ltd. 1931. 10s. 6d. net.

This is not a law book, and therefore not one that comes within the class of those usually noticed in these columns, but readers will find it an interesting narrative, especially during the long vacation, when they put aside those fascinating volumes, the Annual and Yearly Practices. It is the life story of one who from obscure surroundings in a small town in Würtemberg rose to become a leader in the film industry of America. Even at a very early age he showed an amazing shrewdness. Of this, some of the business letters he wrote in his teens, while in the service of a firm in Ichenhausen, afford striking testimony, reminding Mr. Drinkwater, who has performed his biographical task with his accustomed skill, of the letter sent by the office boy of a London solicitor, who, when told to call the attention of a client to the fact that his bill was long overdue, did so in these terms: "Sir, Unless your debt is paid by Thursday next, we shall take such steps as will amaze you. Yours truly." Carl Laemmle possessed what the Americans call grit. A generation or two ago this was usually exhibited by the promising youth of the States in chopping wood and studying law; now their energies are directed into what they consider more profitable channels, and in Laemmle's case, after some preliminary gropings which tested him severely, it turned into building up the great film organisation with which his name has been associated, and the foundation of Universal City near Hollywood. The story of the protracted fight with the Trust which sought to crush him is told with vigour and sympathy. The struggle, we are told, involved him in no fewer than 289 lawsuits in less than three years—surely a record unparalleled in the annals of the courts even of America—but from which, although sorely tried, he emerged successfully. The campaign over, he advanced from triumph to triumph in the film world, made lots of money, which he used wisely, much of it for the benefit of his fellow-countrymen, both in America and in the land of his birth.

Books Received.

Chalmers' Sale of Goods Act, 1893, *including the Factors Acts*, 1889 *and* 1890. Eleventh Edition. 1931. Ralph Sutton, M.A., and N. P. Shannon, Barristers-at-Law. Demy 8vo. pp. li, 218 and (Index) 40. London: Butterworth & Co. 15s. net.

Vincent's Police Code and General Manual of the Criminal Law. By the late Colonel Sir Howard Vincent, K.C.M.G., C.B. Seventeenth Edition. Revised by the Commissioner of Police of the Metropolis. 1931. Foolscap 8vo. pp. xvi and (with Index) 351. London: Butterworth & Co. (Publishers) Limited. 3s. 6d.

The Law of Motor Vehicles. By Frederick G. Bristow, F.C.I.S., M.Inst.T., Barrister-at-Law. 1931. Crown 8vo. pp. xii and (with Index) 304. London: The Commercial Motor Users Association (Inc.). 5s. net.

Gibson's Criminal and Magisterial Law. By Arthur Weldon and A. Clifford Fountaine. Ninth Edition. 1931. Royal 8vo. pp. lvi and (with Index) 366. London: The "Law Notes" Publishing Offices. 21s. net.

WILL IN 163 PIECES.

In a will suit in the Probate Court recently, a solicitor produced a will which had been torn into 163 pieces. He had stuck a number of pieces on a large sheet of paper, but had been able to place correctly only seventy-eight of the fragments.

Mr. Justice Bateson, having examined the sheet of paper and the additional pieces, said the solicitor might make an affidavit, and probate would then be granted of the document as pieced together and completed.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to The Assistant Editor, 29, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Purchase by an Estate Agent of his Client's Property IN HIS HANDS FOR SALE FROM HIS CLIENT'S FIRST MORTGAGEE —VALIDITY.

Q. 2265. A purchases a house from X, an estate agent owner, in 1926 for £375, paying a deposit of £25 thereon. The balance of the purchase money is found by getting a building society to take a first mortgage for £200, and X, the vendor, taking a second mortgage for £150. In 1931 A discovers that circumstances will not permit of his continuing to keep up the building society subscriptions and pay off current interest to X. A approaches X and asks him to get a purchaser for the property, agreeing to pay him 2½ per cent. commission. A hands X the keys and himself moves to other premises. X's efforts to sell are unsuccessful and he thereupon writes, of his own accord, to the building society, stating A is unable to keep up his subscriptions and inviting instructions. The building society reply that approximately £190 is still due to them, that they intend exercising their power of sale, and offering the property to X at the amount due to the society. This property was not put on the open market. X agrees to purchase at this sum, and a conveyance is executed transferring the property to X and purporting to destroy the "equity of redemption."

(1) Has the power of sale been properly exercised in view of the semi-fiduciary position as between X and A ?

(2) What is the effect of the conveyance to X ?

(3) Has A any remedy against either the building society or X, if he can prove that the property was worth more than X paid for it ?

(4) What are A's rights so far as ensuring that both mortgages have been (if at all) vacated ?

It may be assumed that the power of sale definitely became exercisable. The above questions are directed with a view to ascertaining whether the power was rightly exercised.

A. We express the opinion that there was such a conflict between the agent's duty to his client and his action in buying from the society that the court would set aside the sale whether the society had or had not notice of the fact that the property was in the agent's hands for sale.

(1) Yes. The transaction would stand good unless and until set aside by the court.

(2) To vest the unincumbered fee simple in the agent.

(3) He can apply to the court to have the transaction set aside.

(4) We do not see that any question arises of the vacation of the mortgages.

So far as the first mortgage is concerned, so long as the sale stands, it is at an end, and there is no liability on the covenant to pay principal and interest. So far as the second mortgage is concerned, so long as the transaction stands, only the liability on the covenant to pay principal and interest remains, and as the debt has not been paid no case for a discharge arises. Until the sale is set aside there would not appear to be any equity of redemption still subsisting under the second mortgage. If the sale was set aside, there would, of course, be no question of vacation of the mortgages. The whole position is one of very considerable difficulty, and A might be well advised to let matters stand, if he can obtain a release from all liability from X. This would involve a loss of the deposit (£25) and the amount paid off the building society's mortgage (£10); but as against that there would be no necessity to find a purchaser of the house, which might involve an agent's commission, or to indulge in litigation, which, even if successful, would certainly involve some expenditure.

Husband Intestate—WIFE DESIRING TO CARRY ON FARM.

Q. 2266. A farmer contracted to purchase his farm for £2,000 (deposit £200 paid) and shortly afterwards died intestate without issue, but leaving a wife and one brother only, who took out administration. The estate consisted of cash at bank £779 and farming stock valued at £519. The administrators completed the purchase of the farm by borrowing £1,200 on mortgage and paying the balance and costs out of cash. The debts and funeral and testamentary expenses have been paid by sale of part of the farming stock, reducing it to the present estimated value of £350. The widow wishes to carry on the farm. If the brother agrees to this, ought the present value of the farming stock to be appropriated in part payment of her £1,000 on her undertaking to indemnify the brother against any liability ? Or what will be her position in regard to interest on her £1,000 and any profit made ?

A. From the figures given it appears that the total estate is only £1,129 plus or minus the difference in the saleable value of the farm and its purchase price. As the widow is entitled to her £1,000 and interest to the time it is raised, it would seem there can only be about £100 surplus for the brother, and that after the widow's death, the two being the only persons entitled can make any agreement they like. The obvious course seems to be for the parties to agree the *present value* of the surplus (over £1,000 and interest) payable at the widow's death (£x), transfer the assets including the farm to the widow, and let her give a second mortgage to the brother for £x and interest at an agreed rate, or raise and pay him out £x.

Repairs to Controlled House.

Q. 2267. The landlord of a dwelling-house subject to the Rent Restriction Acts has served upon the tenant the usual statutory notice of increase of rent whereby he imposed the permitted increases of 15 and 25 per cent. of the net rent and he certified that the increase of 25 per cent. was on account of his responsibility for the whole of the repairs: (1) Does this admission as to the liability for repairs imply that the landlord must carry out all internal as well as external repairs or only that he must keep the dwelling-house "wind and water-tight" ? (2) The tenant demands that the landlord shall repair the boarded floor of the front parlour on the ground-floor and also replace a worn-out kitchen grate by a new one. Does the landlord's liability extend so far ? (3) How do the various Housing Acts affect the landlord's liability as regards repairing the two items mentioned above ? The tenancy dates from about 1905, but the present landlord has only recently become the owner of the property and he does not know the terms of the original agreement, but he does know that there is no written agreement.

A. (1) The landlord's admission alone does not impose upon him any further liability than that of keeping the premises "wind and water-tight," but he is under the statutory obligations mentioned in para. 3, *infra*. (2) The landlord's liability does not primarily extend to replacing floorboards or substituting a new grate, but the tenant can apply to the

county court to suspend the increase (until the landlord does the repairs) under the Increase of Rent, etc., Act, 1920, s. 2 (2). (3) The landlord may be required by the local authority to effect the above repairs under the Housing Act, 1925, s. 3, and a closing order may be made under s. 11 until the house is rendered fit for human habitation. See *John Waterer, Sons and Crisp Limited* v. *Huggins* (1931), 47 T.L.R. 305.

In Lighter Vein.

THE WEEK'S ANNIVERSARY.

On the 23rd August, 1870, Sir Jonathan Frederick Pollock died at the age of eighty-seven, four years after his retirement from the Court of Exchequer, where he had presided for over twenty years. Vigorous from first to last both in body and mind, he was rarely unwell and retained in his old age enough energy to renew the mathematical studies of his youth. Personal courage was always one of his qualities; once when a poacher whom he had caught fishing in his river became abusive, he fell upon the fellow himself and thrashed him. His progeny by his two marriages was patriarchal, numbering in all eighteen children. Two of his brothers attained eminence, one as a field-marshal and the other as a judge in India.

ALL ALONE.

At Plymouth Quarter Sessions recently, counsel, solicitors and fifty jurymen met to find only one prisoner to try and, even so, they had to wait an hour before he arrived by train from Wandsworth Gaol. Hawkins, J., had a good story of a ridiculous incident which occurred at Saffron Walden once when there was only a small child to try for the theft of a ball of string. Very impressively did the Recorder charge the grand jury and when they had duly found "true bill" he ordered the six-foot gaoler to "put up the prisoner." The giant vanished down the trap to the cells, but it was a long time before his head re-appeared like that of a pantomime policeman. "I beg your honour's pardon," he apologised, "they've forgot to bring him. They've left him at Chelmsford." So, for want of a prison of its own, Saffron Walden missed the rare excitement of a trial, for the little crime of the little criminal was probably pursued no further.

RENUNCIATION.

The tentative proposal to reduce by 25 per cent. the salaries of the Australian judges was greeted by them with neither unanimity nor enthusiasm. No such sacrifice has yet been asked of our own Bench, but it was only after a very natural hesitation that the law officers consented to a similar step in their own regard. Lord Justice Kay while he was at the Bar provided an extraordinary instance of modest disinterestedness. A case he was engaged in as leader presented no difficulty, but concerned a large estate and as usual in similar circumstances, the fees were based on the latter consideration. During the consultation, Kay sent to ask how much his brief was marked. "Far too much!" he exclaimed, when he was told the amount. "Put down a third of that." Whether this careless generosity pleased his junior and his clerk as much as the lay-client does not appear.

LORD READING.

The wedding of Lord Reading has recalled to the public eye a great and versatile genius who for a few years has walked outside the legal and political lime-light. His professional success was due in great measure to the acuteness of his analytical cross-examination. The disconcerting thoroughness of his method was well described by a surgeon who had had to stand up to him in court. "I dreamed of you last night, Mr. Isaacs," he said, "you have been a nightmare to me. I have hardly slept since you let me out of the box on Friday. I dreamed you had cross-examined me and I seemed to have nothing left except bones."

Notes of Cases.

House of Lords.

Kitchen *v.* **C. Koch & Co., Ltd.** 6th July.

WORKMEN'S COMPENSATION—FAILURE TO GIVE NOTICE OF CLAIM—REASONABLE CAUSE—INDUSTRIAL DISEASE—CERTIFICATE OF DATE OF DISABLEMENT—WORKMEN'S COMPENSATION ACT, 1925, ss. 14, 43.

This appeal from the Court of Appeal raised the question whether, in the case of a man with industrial disease, the failure to claim compensation within the six months was occasioned by a reasonable cause. For many years the appellant had been in the service of the respondents as an operative cotton spinner. He ceased to be employed on 28th January, 1929, and was never again employed by anyone. On 24th July, 1929, he applied for and obtained what he thought was a certificate of disablement from the certifying surgeon of the district. The certificate was wrong in two ways. It certified the wrong disease from which the appellant was suffering, and the date of disablement was not specified. A second certificate was obtained which contained a proper description of the industrial disease and eventually the date of disablement. On that a claim was made on 30th January, 1930, but it was outside the six months from the date of disablement.

Lord BLANESBURGH (with whose judgment Lord DUNEDIN desired to be associated) said the only question was whether there had been a reasonable excuse for not making the claim within the specified period. That was the case as it presented itself to the arbitrator and the Court of Appeal, and they came to the conclusion that they could not so hold. He did not say that there was no difficulty, but he had come to the conclusion that there was a reasonable excuse. He was content to believe that the certifying surgeon, so far as professional skill was concerned, adequately filled his post, but as a filler-up of a form he had shown himself a blunderer. Nor was the trade union agent who conducted the case for the appellant much better. He accepted the first useless certificate as if it were good, and sent it to the employers. When he got it back again he realised it was bad, but for no real reason he put off the fresh examination from 1st September to 19th November. It was that unexplained delay that lost him his client's case in the courts below. For that delay he did not think the appellant should be held to blame. He therefore came to the conclusion that the case fell within s. 14 (1) (*b*). But he trusted it would be understood that delays were very dangerous, and that this case must not be used as countenancing a workman sitting on in the knowledge of having contracted a disease and doing nothing to make good his claim. He moved that the appeal be allowed, and that the order of the Court of Appeal and the award of the arbitrator be set aside, with costs there and below, and the matter be remitted to the arbitrator to make an award of compensation to the appellant.

Lords WARRINGTON, ATKIN and THANKERTON concurred.

COUNSEL: *Edward Cave*, K.C., and *C. H. Spafford*; *Edgar Dale* and *B. Ormerod*.

SOLICITORS: *Church, Adams, Tatham & Co.*, for *Cobbett, Wheeler & Cobbett*, Manchester; *Gregory, Rowcliffe & Co.*, for *John Taylor & Co.*, Manchester.

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Westfal-Larsen and Co. Aktieselskabet *v.* **Russo Norwegian Transport Co. Ltd.** Wright, J. 10th July.

CHARTER-PARTY—DEMURRAGE—HOLIDAYS IN RUSSIA.

The plaintiffs in this case, Norwegian shipowners, and the owners of the steamer "Hosanger," by a charter-party dated the 11th December, 1929, chartered the "Hosanger" to the

defendants, a trading branch of the Soviet Government, to go to Leningrad to load a cargo of timber for London. The charter-party, which was in the Chamber of Shipping Baltic Wood Charter, 1926, form, contained, *inter alia*, provisions as to the time allowed for loading and for payment of demurrage and dispatch money, and in particular provided: "Cargo to be loaded and stowed in nine weather working days, Sundays and holidays excepted . . .' On arrival at Leningrad the "Hosanger" gave notice of readiness to load on the 24th December, 1929. The loading was completed on the afternoon of the 6th January, and the vessel then brought the cargo to London. The plaintiffs claimed a sum for demurrage, and part of the timber was deposited in accordance with s. 494 of the Merchant Shipping Act, 1894, in a warehouse of the Port of London Authority under a lien of the plaintiffs for the money alleged to be due to them. The defendants subsequently paid the Authority the amount claimed to obtain release of the deposited timber. The plaintiffs in the present action claimed (1) a declaration that they were entitled to have the money paid out to them; and (2) payment to them by the Authority. The sole question was whether the 25th and 26th December, 1929, and the 1st January, 1930, were "holidays" within the meaning of the charter-party. If they were not holidays the "Hosanger" had exceeded her time for loading and the plaintiffs were entitled to demurrage. If those days were holidays the defendants were entitled to dispatch money.

WRIGHT, J., said that before the introduction of the five-day week in Russia in 1929 it was clear that the old traditional religious festivals were observed as holidays at Leningrad. The evidence had not been sufficient to satisfy him that at the material date there had been any change in the practice. On each of the three days in question work was actually done in some cases, but extra payment would be made for the labour. He held that the three days were all holidays. Judgment for the defendants.

COUNSEL: *Sir Robert Aske*, for the plaintiffs; *Willink*, for the defendants.

SOLICITORS: *Botterell & Roche; Wynne-Baxter & Keeble.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Probate, Divorce and Admiralty Division.

Lacey *v.* **Lacey.** Lord Merrivale, P. 15th July.

DIVORCE—WIFE'S RESTITUTION SUIT—SUBSISTING SEPARATION BY AGREEMENT—DESIRE FOR RESUMPTION OF COHABITATION SOLELY IN INTERESTS OF CHILDREN—"SINCERITY" DEFINED.

The court dismissed this suit by a wife for restitution of conjugal rights on the ground that there was an absence of a sincere desire on her part that her husband and she should live together again as man and wife. The parties were married in 1907, and there were four children of the marriage, a daughter aged twenty-three years and three sons between the ages of seventeen and twenty years. In a letter before proceedings the wife wrote to her husband asking him to provide a home for her and the children with him, and saying that it was a great responsibility for her to educate and put out into the world three boys, and that she thought it ought to be shared by the father. The respondent replied refusing to return to her, or "to disturb the deed of separation insisted upon by you or your solicitor last September." In answer to the petition the respondent set up the deed and alleged want of *bonâ fides*.

Lord MERRIVALE, P., in giving judgment, said that domestic association between the parties ceased in 1925. In January, 1927, the petitioner wrote to the respondent: "We disagree utterly and entirely. I cannot and will not live with you in the same house again." Discussions having taken place as to the amount of maintenance the respondent should pay for his wife and children, in November, 1929, a "memorandum of agreement" was signed, which, though it provided for the position to be reopened at the end of five years, amounted in his (his lordship's) opinion, to a valid and subsisting agreement to live separate and apart. The question was, whether, notwithstanding that agreement, the wife could withdraw from it and require that cohabitation should be resumed. The wife said that the husband's payments were not sufficient together with her own means to educate the younger children in the manner best designed to promote their welfare. She honestly took that view and wrote suggesting that they should form a household with the children. There being a separation between the parties could a proposal of that kind be insisted on, not being a proposal to restore the connubial relationship *simpliciter*, but being made with another purpose, and subject to implied conditions with regard to that purpose? Could such a proposal be relied on to get rid of the effect of the agreement? What the wife honestly desired, for absolutely unselfish and praiseworthy motives, was not a sincere desire that the husband and she should live together as man and wife. The petition must, therefore, be dismissed.

COUNSEL: *Clifford Mortimer*, for the petitioner; *Bush James*, for the respondent.

SOLICITORS: *Landman and Foy; Francis Miller and Steele.*

[Reported by J. F. COMPTON-MILLER, Esq., Barrister-at-Law.]

Expense of Litigation.

OBSERVATIONS OF THE LONDON CHAMBER OF COMMERCE ON THE REPORTS OF THE BAR COUNCIL AND THE LAW SOCIETY.

The Committee of the London Chamber of Commerce which was responsible for the preparation of the Memorandum on the "Expense of Litigation," in the spring of 1930, have recently had under consideration the reports of the Bar Council and The Law Society on the subject.

On this Committee's advice the Chamber has submitted a further Memorandum to the Lord Chancellor.

In commenting on the Bar Council's report the Chamber emphasises its previous recommendation that it is essential for the admissibility of documents in evidence and of written evidence to be made compulsory, unless the court otherwise directs. It is felt that the Bar Council's report in this connexion does not go far enough, and its recommendation—That if both parties agree or the court so directs, evidence of witnesses may be presented in the form of affidavits—would tend to put too much power in the hands of obstructive or impecunious plaintiffs or defendants.

The Chamber welcomes the observations which were recently made by Mr. Justice Roche to the effect that correspondence and documents ought to be agreed and rendered admissible in evidence without further proof, and also that the court was in no way unwilling to comply with requests by both parties to decide matters on documentary evidence which would not, apart from consent of the parties, be suitable or admissible as evidence. It is considered, however, that the weak spot in all such efforts made to induce litigants to agree upon a simplified proceeding lies in the Bench's lack of power to enforce on the parties such a mode of trial, and the Chamber, therefore, has submitted that no real simplification of procedure can come about until these things are made compulsory and not merely left to the goodwill of the parties.

It recommends that the wording of Ord. 37, r. 1 of the Rules of the Supreme Court should be changed, so as to provide that witnesses shall give their evidence in written form unless the court or judge at any time for sufficient reason should order the contrary, and that if any party applies to the court that witnesses should be produced for cross-examination, and the court so orders, then that such party should deposit the cost of cross-examination and witnesses' expenses which should be paid by him unless the court otherwise orders. An alteration of this rule would obviate the necessity for new legislation. It is urged, however, that unless the taking of affidavit evidence is made compulsory unless otherwise ordered, no effective economy will be produced.

"THE TWO-THIRDS RULE."

The Chamber has given further careful consideration to this practice and entirely adheres to the recommendation contained in its original Memorandum that the two-thirds rule should be abolished. It will be remembered that the Bar Council's Report expressed the view that the practice under which

junior counsel was entitled to a fee of from three-fifths to two-thirds of his leader's fee, was not to any important extent responsible for the excessive cost of litigation. Attention is drawn by the Chamber to its original remarks on this subject which pointed out that if a leading counsel (meaning any leading counsel, whether having a large practice or not) is employed the junior counsel has less responsibility, but is still entitled to two-thirds of his leader's fee. It then went on to point out that if a leading counsel of great eminence (not an average King's counsel) was employed, then the junior counsel's fee increased accordingly under the two-thirds rule, although his responsibility might decrease further.

The recommendation of the Bar Council to modify the existing practice in cases where the leader's fee exceeds 150 guineas, it is suggested, affords no real relief, because it only affects very heavy cases and leaves the average class of case untouched. If the members of the junior bar were to abandon entirely the two-thirds rule, provided they received a higher fee than at present for settling pleadings and advising on the evidence to be called on a trial and the merits of a case, then the Chamber is of the opinion that in the long run they would be better off than at present, as the cases in which pleadings are drawn and opinions given on evidence are considerably more numerous than the number of cases which go to trial.

The Chamber still considers that the appointment of a business manager for the management of the lists and courts is desirable, expecially if in all or the majority of cases dates for trials are fixed. It will be recalled that the Bar Council did not approve of this suggestion. In referring to its remarks that there was no reason to suppose that an outside person would be more competent than those who had already had considerable experience in these special branches of organisation, the Chamber points out that its original suggestion was that a solicitor with experience of organisation in the Army or in a Government office should be appointed. It did not suggest that a person ignorant of legal procedure should be appointed. It is considered that a barrister with practical experience who has also had experience of organisation would be equally effective. In any case he should be a whole-time official who has no other duties whatsoever.

APPEALS.

Although the Chamber's original report did not deal with the question of appeals, the subject is referred to in its further Memorandum seeing that this matter was touched upon in the Bar Council's report.

The Chamber puts forward the view that litigants would be fully satisfied with an appeal to only one Court of Appeal. On many legal questions opinions may legitimately differ, and it is, therefore, by no means impossible for a judgment of the Court of First Instance to be overruled by the Court of Appeal and to be restored by the House of Lords. It may well be that the question is one of appreciation, and the litigants would have been quite satisfied with an appeal to one court only, in view of the public confidence which our courts command. The point of litigation, it is urged, is to obtain the decision of an impartial and trusted person which decision should put an end to the dispute, and not to obtain as many opinions as possible on a legal question.

The Chamber accordingly agrees with the Bar Council that the question of limiting the right of appeal to the Court of Appeal is one which deserves serious consideration.

As regards the observations of The Law Society that there has been a tendency of recent years to overload cases and that to some extent the remedy was in the hands of the judges, who should be more ready to give definite directions to the Taxing Master to disallow the costs of unnecessary evidence, the Chamber agrees. It considers, however, that the judge should not leave the allowance or disallowance to the Taxing Master, who has no previous knowledge of the case, but should state that the costs of such and such evidence should not be recovered by the party entitled to the costs. It is sometimes forgotten by the Bench and Bar that £1 spent in court is just the same to a litigant as £1 recovered or paid in respect of a claim, and that a litigant looks at the total financial result and not only at parts of it.

The investigations made by the Chamber, the Bar Council, and The Law Society, coupled with the observations of Mr. Justice Roche, show that all are in agreement on a number of points, viz. :—

(*a*) That the cost of litigation under the present procedure is higher than is necessary ;

(*b*) That the remuneration of the average solicitor or barrister under the present procedure is reasonable (except as regards the two-thirds rule) ;

(*c*) That the main reduction in expense must therefore be obtained by alterations in the system and procedure ;

(*d*) That there should be a consideration by the Master of the Court, or a judge, after pleadings as to the further procedure to be adopted ;

(*e*) That dates of trials should be fixed ;

(*f*) That documents should be accepted in evidence without formal proof unless challenged.

(*g*) That evidence from abroad should be given in written form such as affidavit or declaration ;

(*h*) That written evidence, such as by affidavit or declaration, should be more widely used in substitution for oral evidence.

In view of this the Chamber submits that there now appears to be no obstacle to the authorities immediately altering the Rules of the Supreme Court in order to provide for changes on these lines without waiting for further discussion of the questions on which all concerned are not in agreement. It does not appear to require legislation to provide for the changes on which the different interests are agreed, and it seems that there should be no difficulty therefore in a substantial instalment of the reforms indicated being carried into effect at once.

Legal Notes and News.

Honours and Appointments.

The King has approved the appointment of Mr. ROBERT STEPHEN DE VERE, Chief Justice of Seychelles since 1928, to be Chief Justice of Grenada (an island in the Windward Group, West Indies).

Wills and Bequests.

Mr. Robert Still, solicitor, of Broughty Ferry, left personal estate valued at £5,009.

Mr. John S. Parkin, barrister-at-law, of Amersham, left £21,137, with net personalty, £11,279.

Mr. Andrew R. Cowan, solicitor, of Ayr, partner in the firm of Kilpatrick & Wilson, left personal estate valued at £9,424.

Mr. Walter W. Brodie, solicitor, Llanelly, Under-Sheriff of Carmarthenshire, clerk to the Llanelly Bench of magistrates, and coroner for the Llanelly district, left estate of the gross value of £41,589, with net personalty £37,828. The testator left :—

To his partner, Edwin Walton, his practice of Brodie and Walton and the use of the library at John-street, Llanelly, and the office furniture there for so long as he requires them, and "then I give the law library to the Llanelly Law Society on condition they keep it and maintain it as the 'Brodie Library.'" He gave to his partner £100 per annum and £1,000 each to his two daughters.

Mr. Edward Brooke, solicitor, for over thirty years Town Clerk of Margate, left estate of the gross value of £1,481, with net personalty £1,325.

A further grant of probate regarding settled lands, valued at £18,025, has been issued in respect of the estate of Mr. G. F. Paddock, solicitor, Barlaston (Staffs), making the total £106,616.

Mr. Thomas Brayshaw, solicitor, of Settle, left £12,381, with net personalty £5,425.

Mr. Frank Marsh, solicitor, of Manchester, left £18,925, with net personalty £17,767.

Mr. Arthur T. Parkinson, solicitor, of Manningham, left £21,157, with net personalty £1,540.

Mr. Henry Temperley, of Stoke Poges, late a partner in Cotterell, Roche and Temperley, solicitors, of Newcastle-on-Tyne, left £36,344, with net personalty £23,310.

Mr. John L. Thompson, solicitor and Alderman, of Brighton, left £13,862, with net personalty £11,441.

ESTATE ASSESSMENT IN MALAYA.

According to figures published in the annual report of the Federated Malay States Estate Duty Office, the number of estates on which duty was assessed and collected during 1930 was 487, as compared with 622 the previous year. Of estates not exceeding $5,000 in value, 220 were assessed for duty in 1930 as against 282 in 1929, but the number of estates exceeding $5,000 in value which were so assessed was about the same in both years. The number of affidavits registered during the year was 554, as compared with 615 in 1929, 720 in 1928, 1,017 in 1927 and 746 in 1926, the decrease being attributable to the fact that the Estate Duty Office no longer deals with intestate estates not exceeding $3,000 in gross value and containing immovable property.

RESIDENTS' DELUSION.

While prosecuting in some cases of alleged unpaid rates in an area recently added to Bournemouth, the Chief Rating Officer said that he had interviewed many of the defendants, and some of them appeared to be under the impression that they were not called upon to pay rates. "That happy state of affairs," he added, "does not prevail in the county borough of Bournemouth."

NOTICE.

FINANCE ACT, 1931—LAND VALUE TAX.

1. The Commissioners of Inland Revenue direct attention to the provisions of Section 28 of the above Act, which requires that, as from the 1st September, 1931, on the occasion of :—

(i) any transfer on sale of the fee simple of land ;

(ii) the grant of any lease of land for a term of seven or more years ;

(iii) any transfer on sale of any such lease ;

it shall be the duty of the transferee, lessee, or proposed lessee to produce to them within thirty days of its execution, the instrument by means of which the transfer is effected, or the lease is granted or agreed to be granted. Where, however, the instrument is first executed at a place out of Great Britain the period of thirty days runs from the date when it is first received in Great Britain.

2. The person producing any such instrument is required by the Act either—

(*a*) to furnish to the Commissioners with the instrument a statement of certain particulars regarding the instrument (Form L.V.(A) is provided for this purpose) ; or

(*b*) to furnish a copy of the instrument for retention by the Commissioners ; or

(*c*) to furnish such information as to the transfer or lease as the Commissioners may, within six months after production of the instrument, require.

3. Where the requirements of (*a*) are not complied with, the person producing the instrument may be required to furnish further particulars as to the identity of the land and the estate or interest transferred, in any case in which such particulars are not fully set out in the instrument itself (Form L.V.(C) is provided for this purpose).

4. The Act provides that the person producing any instrument who does not comply with the requirements of (*a*) or (*b*) shall be deemed to have elected to comply with the requirements of (*c*).

5. The provisions of the Act as to production of instruments do not apply to an instrument which relates solely to incorporeal hereditaments or to a grave or right of burial, or to an instrument which is a mining lease only or by means of which the transfer of a mining lease only is effected.

6. Where an agreement for a lease has been produced, the lease itself need not be produced unless inconsistent with the agreement. If, however, the lease is produced, it will be stamped with the appropriate stamp (see paragraph 7).

7. An instrument produced in accordance with the provisions of the Act will be stamped with a stamp denoting that it has been so produced. Without such a stamp, no instrument of which production is required shall be deemed to be duly stamped for the purposes of Section 14 of the Stamp Act, 1891.

8. Instruments may be produced at any of the following Inland Revenue Stamp Offices :—

London ..	Somerset House, W.C.2 61, Moorgate, E.C.2	Leeds ..	36, Park Row.
		Liverpool ..	Government Buildings, Victoria Street.
Birmingham	47, Paradise Street		
Bradford ..	29, Manor Row	Manchester ..	184, Deansgate.
Bristol ..	26, Baldwin Street	Newcastle ..	63, Westgate Road.
Cardiff ..	Government Buildings, Westgate Street	Nottingham	Queen Street.
Hull ..	Post Office Buildings	Sheffield ..	13, East Parade.

Instruments will be accepted at any Head or Branch Post Office, or at certain Money Order Sub-Offices, for transmission to an Inland Revenue Stamp Office, or they may be sent by registered post, prepaid, to the Controller of Stamps, Somerset House, London, W.C.2.

Inland Revenue,
Somerset House, London, W.C.2.
August, 1931.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th July, 1931) 4½%. Next London Stock Exchange Settlement Thursday, 27th August, 1931.

	Middle Price 19 Aug. 1931.	Flat Interest Yield.	Approximate Yield with redemption
English Government Securities.		£ s. d.	£ s. d.
Consols 4% 1957 or after	88½	4 10 5	—
Consols 2½%	57½	4 6 11	—
War Loan 5% 1929-47	101¾	4 19 3	—
War Loan 4½% 1925-45	99	4 10 11	4 12 0
Funding 4% Loan 1960-90	91½	4 7 5	4 8 0
Victory 4% Loan (Available for Estate Duty at par) Average life 35 years	94	4 5 1	4 6 9
Conversion 5% Loan 1944-64	103½	4 16 7	4 15 9
Conversion 4½% Loan 1940-44	98½	4 11 5	4 12 9
Conversion 3½% Loan 1961	78½	4 9 2	—
Local Loans 3% Stock 1912 or after	65½	4 11 7	—
Bank Stock	252½	4 15 1	—
India 4½% 1950-55	75	6 0 0	6 11 0
India 3½%	54½	6 8 5	—
India 3%	47	6 7 8	—
Sudan 4½% 1939-73	99½	4 10 6	4 10 8
Sudan 4% 1974	93½	4 5 7	4 7 0
Transvaal Government 3% 1923-53 (Guaranteed by Brit. Govt. Estimated life 15 yrs.)	87½	3 8 7	3 17 0
Colonial Securities.			
Canada 3% 1938	91	3 5 11	4 10 0
Cape of Good Hope 4% 1916-36	97	4 2 6	4 14 0
Cape of Good Hope 3½% 1929-49	84	4 3 4	4 16 9
Ceylon 5% 1960-70	102	4 18 0	4 17 8
*Commonwealth of Australia 5% 1945-75	72½	6 17 11	7 0 0
Gold Coast 4½% 1956	100	4 10 0	4 10 0
Jamaica 4½% 1941-71	99	4 10 11	4 11 0
Natal 4% 1937	97	4 2 6	4 11 6
*New South Wales 4½% 1935-1945	58	7 15 2	8 10 0
*New South Wales 5% 1945-65	67	7 9 3	7 10 5
New Zealand 4½% 1945	91xd	4 18 11	5 9 0
New Zealand 5% 1946	99	5 1 0	5 2 0
Nigeria 5% 1950-60	102	4 18 0	4 17 6
*Queensland 5% 1940-60	72	6 18 11	7 8 0
South Africa 5% 1945-75	102	4 18 0	4 17 6
*South Australia 5% 1945-75	73	6 17 0	7 0 0
*Tasmania 5% 1945-75	75½	6 12 5	6 15 0
*Victoria 5% 1945-75	70	7 2 10	7 6 0
*West Australia 5% 1945-75	75	6 13 4	6 15 6
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corporation	65	4 12 4	—
Birmingham 5% 1946-56	104	4 16 2	4 14 6
Cardiff 5% 1945-65	101xd	4 19 0	4 19 0
Croydon 3% 1940-60	75	4 0 0	4 12 0
Hastings 5% 1947-67	103	4 17 1	4 16 6
Hull 3½% 1925-55	84	4 3 4	4 12 3
Liverpool 3½% Redeemable by agreement with holders or by purchase	77	4 10 11	—
London City 2½% Consolidated Stock after 1920 at option of Corporation	55xd	4 10 11	—
London City 3% Consolidated Stock after 1920 at option of Corporation	66xd	4 10 11	—
Metropolitan Water Board 3% "A" 1963-2003	66½	4 10 3	—
Do. do. 3% "B" 1934-2003	66½xd	4 10 3	—
Middlesex C.C. 3½% 1927-47	88	3 19 7	4 12 3
Newcastle 3½% Irredeemable	74	4 14 7	—
Nottingham 3% Irredeemable	66	4 10 11	—
Stockton 5% 1946-66	102	4 18 0	4 17 6
Wolverhampton 5% 1946-56	104	4 16 2	4 14 6
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	81	4 18 9	—
Gt. Western Railway 5% Rent Charge	100	5 0 0	—
Gt. Western Rly. 5% Preference	77½xd	6 9 0	—
L. & N.E. Rly. 4% Debenture	71	5 12 8	—
L. & N.E. Rly. 4% 1st Guaranteed	62xd	6 9 1	—
L. & N.E. Rly. 4% 1st Preference	38xd	10 10 6	—
L. Mid. & Scot. Rly. 4% Debenture	73½	5 8 10	—
L. Mid. & Scot. Rly. 4% Guaranteed	63xd	6 7 0	—
L. Mid. & Scot. Rly. 4% Preference	40xd	10 0 0	—
Southern Railway 4% Debenture	75½	5 6 0	—
Southern Railway 5% Guaranteed	95½xd	5 4 9	—
Southern Railway 5% Preference	69½xd	7 3 11	—

*The prices of Australian stocks are nominal—dealings being now usually a matter of negotiation.

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Stock
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4	7 0
3	17 0
4	10 0
4	14 0
4	16 9
4	17 8
7	0 0
4	10 0
4	11 0
4	11 6
8	10 0
7	10 5
5	9 0
5	2 0
4	17 6
7	8 0
4	17 6
7	0 0
3	15 0
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